

# **Exhibit 23**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO**

WARNER RECORDS INC., *et al.*,

Plaintiffs,

v.

Case No. 19-cv-00874-RBJ-MEH

CHARTER COMMUNICATIONS, INC.,

Defendant

**DECLARATION OF STEVEN MARKS**

I, Steven Marks, hereby declare pursuant to 28 U.S.C. § 1746 that the following statements are true and correct to the best of my personal knowledge and belief:

**Introduction**

1. I am the former General Counsel and Chief of Digital Business for the Recording Industry Association of America (“RIAA”), where I worked from 1997 until January 2019. I have personal knowledge of the facts set forth herein and, if necessary, I would and could competently testify thereto if called as a witness in this matter. I submit this declaration in support of the RIAA’s Opposition To Charter Communications, Inc.’s Motion To Compel Discovery (the “Charter Motion”).

2. The RIAA is the 501(c)(6) non-profit trade organization that supports and promotes the creative and financial vitality of the major recording companies, including the Record Company Plaintiffs in the above-captioned litigation, who are RIAA members. The Record Company Plaintiffs have worked closely with RIAA for many decades. RIAA assists the Plaintiffs in a variety of ways, including, but not limited to, (1) anti-piracy investigation and

enforcement, both in the physical realm and online; (2) copyright litigation matters, including as counsel in numerous cases; (3) legislative issues at the federal and state level; (4) regulatory matters with the Copyright Office and other agencies such as the Federal Communications Commission, the Patent & Trademark Office, and the United States Trade Representative; (5) industry relations issues such as overseeing the program for Gold and Platinum awards based on artist sales; (6) coordinating with international organizations and governments on music protection; and (7) research. With respect to its anti-piracy work, RIAA broadly assists Plaintiffs in protecting their copyrights against infringements by various types of entities (including numerous internet service providers (“ISPs”)).

3. RIAA maintains a legal department devoted to representing its members’ legal interests. RIAA lawyers are highly experienced attorneys, some of whom represented the Record Company Plaintiffs for years in private practice at large international law firms before joining RIAA. RIAA lawyers serve as counsel and provide legal advice to RIAA’s members on a variety of matters, including the identification and development of copyright claims and litigation targets. RIAA lawyers regularly represent RIAA members in litigation. Where RIAA members are jointly represented by litigation counsel for a particular matter, RIAA lawyers often manage the litigation and work closely with outside counsel to advance RIAA members’ interests.

4. RIAA managed a notice program for its members, including the Record Company Plaintiffs, from 2012 to 2015, which included monitoring peer-to-peer networks for infringement of Plaintiffs’ copyrighted works and sending notices of infringement to Charter and other ISPs. For this program, RIAA engaged two vendors, MarkMonitor and Audible Magic, to detect

infringements occurring on Charter's network and send infringement notices to Charter.

Through this program, RIAA sent more than 700,000 notices to Charter during these years.

5. In December 2015 and early 2016, RIAA attorneys worked closely with attorneys at Oppenheim + Zebrak, LLP ("O+Z") to analyze potential litigation claims arising out of the 2012-15 notice program. [REDACTED]

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Executed this \_\_\_\_\_ day of April 2021 in \_\_\_\_\_ Kensington, MD

DocuSigned by:  
  
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Steven Marks